United Nations CCPR/C/TTO/QPR/5

International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the fifth periodic report of Trinidad and Tobago*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on measures taken to implement the recommendations contained in the Committee's previous concluding observations (CCPR/CO/70/TTO). Please indicate which procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party.

2. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations and that are not otherwise addressed in the following questions.

3. Given the dualist constitutional system of the State party, please provide information on the extent to and the manner in which the Covenant has been incorporated into domestic law, and provide examples of cases in which the provisions of the Covenant have been referred to by national courts. Please indicate the steps taken to increase awareness and understanding of the Covenant among the general public and State employees, especially teachers, judges, lawyers, medical practitioners and law enforcement officials.

B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

4. Please report on any progress made to withdraw the reservations or declarations to articles 4 (2), 10 (2) (b), 10 (3), 12 (2), 14 (5), 14 (6), 15 (1), 21 and 26 of the Covenant, and to reaccede to the Optional Protocol to the Covenant. Please also indicate whether the State party has taken or is planning to take measures with a view to ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

5. Please provide information on the availability and accessibility of remedies for individuals claiming violations of the rights enshrined in the Covenant. In this regard,

* Adopted by the Committee at its 124th session (8 October–2 November 2018).

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please provide information on the mandate of and activities carried out by the Office of the Ombudsman. Please also provide information on the mandate of the Equal Opportunity Commission established under the Equal Opportunity Act, including statistical information on the number of complaints received, investigations ordered, and any remedial measures granted. Please also provide information on the steps taken to establish a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

State of emergency and counter-terrorism measures (arts. 2, 3, 4, 7, 9, 10 and 14)

6. With reference to section 7 of the Constitution, please provide information on the legal framework governing the state of emergency and report on the compatibility of existing laws or regulations with article 4 of the Covenant. With reference to the state of emergency declared in August 2011, please indicate on which grounds it was declared and terminated, whether the procedures in article 4 were followed for the declaration, and which rights were derogated from during the state of emergency and why. Please comment on the allegations that members of the armed forces, including a senior official, were involved in or responsible for assaults, excessive use of force and inhumane treatment of detainees and civilians, and explain the outcome of proceedings against those responsible for such acts before the martial court. Please provide information on any other similar incidents that occurred during the state of emergency between August and December 2011.

7. With reference to the Anti-Terrorism Act of 2005, please provide further information on the counter-terrorism legal framework, including the definition of terrorism and terrorist activities, and the legal safeguards afforded to persons suspected of or charged with terrorist activities or related crimes. Please indicate whether there have been any proceedings or other action taken by the State party on the basis of the Act, and if so, indicate the charges and outcomes of those cases.

Non-discrimination (arts. 2, 3, 20 and 26)

8. Please provide information on the national legal framework regarding discrimination and indicate whether it: (a) provides a definition that includes a comprehensive list of prohibited grounds of discrimination, including race, colour, sexual orientation, gender identity, religion, health, and social or other status; (b) includes direct, indirect and intersecting forms of discrimination; and (c) provides for effective judicial and administrative remedies. Please also provide information on the implementation of existing anti-discrimination laws, and statistical information on complaints received by the Police Complaints Authority and other competent State agencies in relation to discrimination.

9. Please elaborate on the steps and measures taken to combat the marginalization and stigmatization of, lack of access to public services for, and discrimination against, persons living with HIV/AIDS and persons with disabilities. Please indicate: (a) whether the 2005 National Policy on Persons with Disabilities has been successfully implemented, including which legislative proposals have been made and which projects have been implemented by the Disability Unit; (b) whether the State party plans to revise the Immigration Act of 1969, which prohibits the immigration of persons with disabilities; and (c) whether measures have been taken to establish special education institutions and programmes for children with physical and mental disabilities.

10. Please provide information on measures taken to combat discrimination against lesbian, gay, bisexual, transgender and intersex persons, and to include different representatives from civil society in the development and implementation of policies and the drafting of legislation in this regard. In the light of the ruling of the High Court of Justice on 12 April 2018, please indicate whether the State party intends to: (a) ensure that same-sex relations between consenting adults are not subject to criminal sanctions; (b) repeal the law barring homosexuals from immigrating to the State party; (c) include provisions on same-sex unions, homosexuality and sexual orientation in its national gender policy; (d) incorporate sexual orientation into legislation as a prohibited ground of discrimination, as suggested by the Equal Opportunity Commission; and (e) raise awareness among the general population of the importance of non-discrimination against lesbian, gay, bisexual, transgender and intersex persons.

11. Please provide information on the representation of women in senior positions in government, the judiciary, the diplomatic corps, academic institutions and the civil service. Please indicate whether any measures have been taken to implement the recommendations made by the Committee on the Elimination of Discrimination against Women (CEDAW/C/TTO/CO/4-7, para. 31) to increase the participation of women in the job market and to close the wage gap between men and women.

Violence against women, including sexual and domestic violence (arts. 2, 3, 6, 7 and 26)

12. Please provide information on the measures adopted to guarantee that cases of gender-based violence, including sexual and domestic violence and femicide, are investigated, prosecuted and sanctioned, as well as an assessment of the results of those measures. Please also provide disaggregated data on the number of deaths resulting from each type of crime, the complaints received, the investigations and prosecutions pursued, the sentences imposed and the compensation received by victims or relatives. Please provide information on the measures adopted to: (a) ensure that protection mechanisms, including shelters, restraining orders, and counselling centres and assistance, are available to victims and witnesses of violence; (b) guarantee access to justice, including compensation; (c) ensure that those responsible are prosecuted and punished; (d) change the social and cultural patterns and stereotypes that result in the toleration of gender-based violence; (e) prevent teenage pregnancies; (f) ensure access to sexual and reproductive health and education; and (g) adopt the provisions in the Sexual Offences Act (1986) to introduce a sex offenders register, which would help to deal with repeat offenders.

Voluntary termination of pregnancy (arts. 3, 6, 7, 17 and 26)

13. Please explain whether the State party intends to decriminalize the voluntary termination of pregnancy, including in cases of rape, incest or when a pregnancy is not viable. Please describe the measures taken to ensure that women do not have to resort to unsafe abortions that may put their lives or health at risk, and the steps taken to prevent the stigmatization of women and girls seeking abortion. Please describe the measures taken to reduce the high rates of teenage pregnancy and maternal mortality, including with regard to medical training and sanitary conditions.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, liberty and security of person, and treatment of persons deprived of their liberty (arts. 6, 7, 9, 10 and 24)

14. With reference to the Committee's previous concluding observations (CCPR/CO/70/TTO, para. 7), please list the crimes that remain subject to the death penalty and explain the criteria and methods of assessment used to determine which crimes qualify as the "most serious". Please provide information on the terms under which the death sentence is mandatory; on the categories of individuals who are exempt from the death penalty, including persons with serious psychosocial disabilities; and on the methods of execution and procedural safeguards, including access to legal counsel. Please provide data on the number of persons sentenced to death during the reporting period. Pending the abolition of the death penalty, please provide information on the steps taken towards an official moratorium on executions.

15. With reference to the Committee's previous concluding observations (CCPR/CO/70/TTO, para. 14) please indicate the progress made to: (a) address concerns about the police force's alleged brutality and abuse of power, and obstacles placed in the way of police personnel and witnesses who seek to correct such practices; (b) investigate and prosecute police officers responsible for, inter alia, harassment and battery; and (c) improve the collaboration between the Police Complaints Division and the Police Complaints Authority to allow them to effectively and efficiently fulfil their statutory functions to investigate complaints concerning violations of articles 7 and 9 (1) of the Covenant. Please provide information on the allegations that the police force is responsible for summary executions and the alleged failure of law enforcement bodies to reduce the high murder rate in the State party.

16. Please provide information on: (a) the age at which children or juveniles can be held criminally responsible and the age at which can they be sentenced as adults; (b) the progress and results achieved to date in promoting the juvenile justice programme: (c) training programmes planned for or completed by persons involved in juvenile justice matters; (d) the outcome of reports issued by the Children's Authority, which monitors the treatment of children placed in institutions. Please also provide information on whether, in practice, children who are of an "unruly" or "depraved" character are held in adult detention facilities, as stipulated in sections 74 (2) and 78 (3) of the Children Act.

17. Please explain what steps have been taken to address prison conditions, including overcrowding and inmate illnesses and injuries, and to implement the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), especially in relation to sanitary conditions in prisons, and the rehabilitation and reintegration of prisoners in society.

Administration of justice, right to a fair trial and independence of the judiciary (arts. 2, 10 and 14)

18. With reference to the Committee's previous concluding observations (CCPR/CO/70/TTO, para. 14), please indicate the progress made in reviewing chapter 15.01 of the Police Act concerning power to arrest without a warrant, with a view to bringing it into compliance with article 9 of the Covenant. Please also explain what steps the State party has taken to strengthen and improve the effectiveness of the Anti-Gang Act, in particular to address the repeated arrest and release of arrestees due to the failure to charge them within 120 days. Please comment on: (a) the alleged close relationships between gang leaders and police officials; (b) the allegation that police, customs and immigration officers often accept bribes to facilitate drug, weapons, and human smuggling and trafficking; and (c) allegations that the Integrity Commission is lacking in effectiveness and that public officials do not comply with financial disclosure obligations.

19. With regard to the reportedly severe backlog of criminal cases, please provide information on: (a) the steps taken to reform the judicial system, in particular to address the issue that pretrial detainees and remand prisoners constitute 63 per cent of the prison population; (b) the legislative requirements for placing persons in police custody and pretrial detention, including those concerning the maximum length of custody and pretrial detention; (c) the rights of persons while in police custody, including access to a lawyer; (d) the use and rules governing bail and other alternatives to detention in the State party; and (e) any improvements made by the new criminal case management rules adopted in 2016.

20. Please provide information on specific measures taken to guarantee the independence and impartiality of the judiciary, including through the Constitution or laws, to establish clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary, and for the disciplinary sanctions taken against them, including in cases of corruption. Please respond to allegations that the judicial branch is subject to political pressure.

Elimination of slavery and servitude (art. 8)

21. Please provide information on the efforts made to effectively detect, prevent and investigate cases of trafficking, particularly trafficking of women and children for labour or sexual exploitation, and to punish the perpetrators. With regard to the Trafficking in Persons Act of 2011, please provide specific data on the number of complaints of human trafficking received, the investigations and prosecutions pursued, the convictions secured, the nature of the sentences imposed and the reparation and protection afforded to victims, including access to shelters. Please explain the concrete measures taken to: (a) train judges and prosecutors and raise awareness of human trafficking among the public; (b) investigate, prosecute and combat the complicity of public officials, including law enforcement officers, in trafficking offences and the exploitation of women for prostitution, including the running of brothels; and (c) provide witnesses with effective support and protection, including access to medical and psychosocial assistance and appropriate shelters. Please provide information on the criminal proceedings that have taken place in the last five years under the Sexual Offences Act.

Treatment of aliens, including refugees and asylum seekers (arts. 7, 9, 10, 13 and 17)

22. Please comment on the alleged deportation of refugees, especially to the Bolivarian Republic of Venezuela, despite the alleged serious risk of persecution, and elaborate on the safeguards in place to ensure full respect of the principle of non-refoulement, including access to legal aid and language assistance. Please respond to allegations of the arbitrary detention of migrants and comment on reports indicating that decisions made to detain individuals on the grounds of immigration appear to depend solely on their irregular immigration status, including irregular entry, and do not take into account their vulnerabilities, such as their health, age or sexual orientation. Please also provide information on relevant training activities provided for immigration officers.

23. Please indicate: (a) the reasons for the dissolution of the National Consultative Committee on Migration; (b) what steps have been taken to coordinate and oversee the number of migrants, refugees and asylum seekers and ensure that they are afforded their rights; and (c) the number of refugees, asylum seekers and migrants present within the State party, the number of individuals deported and resettled through cooperation mechanisms and the number of camps and reception centres. Please comment on the reports of high numbers of unaccounted migrants and outline the efforts made to establish their whereabouts and prevent similar occurrences in the future. Please provide information on the National Policy to Address Refugee and Asylum Matters adopted in 2014, including its content and the progress of its implementation, any legislation enacted, and how all refugees will be guaranteed basic rights under the Policy.

Freedom of expression (art. 19)

24. With reference to its previous concluding observations (CCPR/CO/70/TTO, para. 19), the Committee notes the repeal, in 2014, of section 9 of the 2013 Libel and Defamation Act on malicious defamatory libel. Please specify whether the State party also intends to review remaining provisions that criminalize defamatory libel, and how many persons have been tried on the basis of the Act in the reporting cycle, including charges, sentences served and imprisonments. Furthermore, please indicate what safeguards exist in the State party to guarantee freedom of expression and of access to information, and the freedom of the media under article 19 of the Covenant.

Freedom of assembly and association (arts. 21 and 22)

25. Please indicate whether there are any legislative restrictions on the right to strike or the right to form trade unions, especially for particular categories of workers. Please explain: (a) if any procedures are in place to obtain permits for public gatherings or protests; (b) on which legal grounds law enforcement officials can intervene in such gatherings or disperse participants; and (c) whether law enforcement officials receive regular training in this regard.

Marriage, family and the protection of minors (arts. 7, 23 and 24)

26. Please provide information on the progress made in the adoption of legislative and practical measures to implement article 23 of the Covenant. Please indicate the measures taken to effectively address, including through providing access to appropriate complaint mechanisms: (a) child abuse and sexual abuse of children, especially in connection with sex tourism; (b) child marriage; and, in particular, (c) the prohibition of corporal punishment of children in all settings.

Right to participate in public life (arts. 25 and 26)

27. With regard to the last parliamentary elections in 2015 and the increase in the representation of women in Parliament, please indicate whether the State party is planning to take any further measures to increase the participation of women in politics at all governmental levels and in public life, including statutory quotas and arrangements for maternity leave for parliamentarians. Please also indicate whether the State party is planning to establish clearer rules to govern the financing of political parties, campaign funds and elections, with the aim of increasing transparency and avoiding incidents such as

wrongful voting extension. Please elaborate on: (a) the progress made in establishing a national commission for women's empowerment and gender equality; (b) its status, appointment of members and structure; and (c) its mandate, with particular regard to increasing women's participation in public life. Please indicate whether political pluralism is guaranteed in the State party, and if so, to what extent civil society participates in the political process.